

a.) Remarks

Claims 1-8 are rejected under 35 U.S.C. §102(b) as being anticipated by Yamasaki et al., (JP 2002-003462). Yamasaki, of course, was cited in the International Search Report in Applicants' corresponding PCT application and is specifically identified in Comparative Example 2 at specification page 13, et seq.

In support of the rejection the Examiner states Yamasaki discloses:

the reaction of lysine β -aminoethyl ester trihydrochloride with phosgene to produce a crude isocyanate which the Examiner presumes has the required APHA hue of 100 or more. The resulting crude triisocyanate is mixed with activated carbon (presumably initially at room temperature) followed by heating, filtration and distillation at reduced pressure in a thin-film molecular still to produce a triisocyanate product with a purity greater than or equal to 99% and an APHA hue of 20. The Examiner presumes that the lysine ester triisocyanate so-produced has the required color stability based on its method of production which essentially mirrors that [which is] instantly claimed and the fact that Yamasaki is silent with regard to any change in hue. (Emphasis added)

This rejection is respectfully traversed. However, prior to setting forth their bases of traversal, Applicants would first like to point out the salient features of the present invention and, *inter alia*, its patentable nature over the prior art.

In this regard, claim 4 for example explicitly recites "a step of bringing a mixture comprising the lysine ester triisocyanate represented by the general formula (I) into contact with activated carbon at a temperature of 10°C to 40°C." Contrary to the Examiner's statement above, such is not at all disclosed either expressly or inherently in Yamasaki. In particular, Applicants' detailed review of Yamasaki reveals that in all

Yamasaki's examples, the lysine ester triisocyanate was contacted with activated carbon at 130°C. See Example 1 at page 12, lines 10-13, Example 3 at page 14, lines 20-22, etc.

Although the Examiner states Yamasaki "presumably [mixes crude triisocyanate with activated carbon] initially at room temperature" there is no basis in Yamasaki for this contention. That is, Applicants respectfully submit those of ordinary skill understand Yamasaki teaches the diisocyanate is heated to 130°C for adding activated carbon and that temperature is maintained for two hours.

Nonetheless, even if the Examiner still contends the diisocyanate was not initially heated before adding activated carbon it is, in any event, explicitly clearly taught (see page 12, lines 4-6) that lysine diisocyanate is distilled off at from 50 to 120°C before activated carbon is added.

Moreover, Yamasaki plainly does not teach or suggest cooling the distilled fraction and so, at the very least, activated carbon is added to Yamasaki while the distilled lysine diisocyanate fraction is at least at 50°C.

Respectfully submitted for all the above reasons, the Examiner's presumption is unsupported on the record. Accordingly, there is plainly no *prima facie* anticipation. (If the Examiner continues to contend otherwise, then he is respectfully requested to provide a personal affidavit under MPEP §2144.03.)

Additionally, there is no *prima facie* obviousness, either; it is not *prima facie* obvious to optimize a variable which is not known to be result-effective. There is nothing in Yamasaki teaching that the temperature at which activated carbon is added to lysine diisocyanate is result-effective.

Yet this is exactly what is established by Applicants' specification.

As shown in Comparative Example 2 at specification page 13 et seq., the lysine ester triisocyanate (APHA 30), which was obtained by the exact process of Yamasaki, was placed in glass sample bottles under a nitrogen atmosphere and stored at 40°C with blocking light. After two weeks the APHA of the lysine ester triisocyanate became 80. This is a change of 167%.

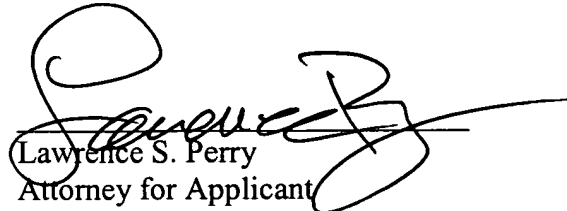
In contrast, Example 1 shows the change in APHA of the lysine ester triisocyanate, which was obtained by Applicants' claimed process was only 5 (from 25 to 30) when it was stored for two weeks at 40°C under a nitrogen atmosphere with blocking light in glass sample bottles. This is a change of only 20%. Therefore, the lysine ester triisocyanate of claim 1 is vastly more stable than the lysine ester triisocyanate which was obtained by Yamasaki.

In view of the above remarks, Applicants submit that all of the Examiner's concerns are now overcome and the claims are now in allowable condition. Accordingly, reconsideration and allowance of this application is earnestly solicited.

Claims 1-8 remain presented for continued prosecution.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



Lawrence S. Perry
Attorney for Applicant
Registration No. 31,865

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

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